3 network while data transmission is underway, and a function to compile and maintain a

4 statistical history of the transmit events.

REMARKS

This amendment is being submitted in response to the Office Action mailed

November 23, 1998 (hereafter, the Action). Upon entry of the foregoing amendments

and in view of the following remarks, favorable reconsideration of the above captioned

application is respectfully requested.

With this amendment, claims 22, 26, 28-33 and 36-39 have been canceled and

replaced with new claims 40-52. Applicants respectfully submit that new claims 40-52

are supported by the original specification, claims and/or drawings, and thus no new

matter has been introduced. Accordingly, upon entry of this amendment, claims 40-52

are pending.

In the Action, claims 22 and 28 were rejected as being unpatentable over the

previously cited Hausman reference, while claims 29-33 and 36-39 were rejected as being

unpatentable over the Hausman reference in view of the previously cited Copeland

reference. Applicants cancellation of claims 22, 26, 28-33 and 36-39 renders these

§ 103(a) rejections moot.

Moreover, Applicants respectfully submit that claims 40-52 are patentable over at

least the Hausman and Copeland references cited above. In accordance with new claims

40-52 presented above, the claimed invention is generally drawn to the problem of

controlling (and increasing) the rate of data transmission over a data network. To

facilitate such data transmission, claim 40, for example, includes the limitation of

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"providing an indication to the host computer that a frame of data has been successfully transmitted over the physical link of the data network when the frame of data has been merely copied to the buffer memory" [of the network controller], i.e., prior to the transmission of the frame of data over the physical link of the network.

The known prior art generally teaches that a network controller does not provide the host computer with an indication of successful frame transmission until the frame has actually be transmitted over the physical link of the destination data network. Applicants respectfully submit that the Hausman reference is typical of this prior art. That is, the Hausman reference explicitly teaches that the adapter (network controller) does not provide the host computer with an indication of successful transmission until after the frame has actually been transmitted over the physical link of the destination network (see, e.g., col. 4, lines 39-62; col. 6, line 36 through col. 7, line 17; and Fig. 4B). Insofar as the Hausman reference *explicitly teaches* that the adapter (network controller) waits until transmission of a frame has been completed before providing the host with an indication of successful frame transmission, Applicants respectfully assert that an artisan would not be motivated by the Hausman reference to issue the indication prior to the actual successful completion of data transmission.

In past Office Actions, the Hausman reference has been asserted as teaching or suggesting the limitation of providing an indication of successful transmission when the data frame is received by the adapter (network controller), citing col. 3, lines 21-23. Applicants respectfully submit, however, that the transmit/receive paradigm used in the Hausman reference to describe the operation of the adapter is from the point of view of

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the host computer. That is, when the Hausman reference refers to receiving data, the adapter is receiving data from a remote computer over the data network on behalf of the host computer. Similarly, when the Hausman reference refers to transmitting data, the adapter is transmitting data to a remote computer over the physical link of the data network on behalf of the host computer. Accordingly, the receive operation, as used in the Hausman reference, does not reference receiving data from the host computer. Rather, col. 3, lines 21-23 of the Hausman reference teaches receiving a frame of data on behalf of the host computer from a remote computer via the physical link of the data network, and issuing an indication (either an RX early or an RX complete indication) to the host computer when the data has been received from the physical link of the data network.

Thus, while the claimed invention of the pending application is drawn to a transmit operation, the citation to the Hausman reference is drawn to a receive operation. Applicants respectfully submit that Hausman's receive operation does not disclose or suggest the transmit operation of the claimed invention.

Even if, arguendo, the indication referenced in col. 3, lines 21-23 (i.e., RX early or RX complete) is somehow analogous to the successful transmission indication of pending claims 40, 46 and 52, Applicants respectfully assert that the Hausman indication is not generated until <u>after</u> the frame has been transmitted over the physical link of the data network. That is, insofar as the referenced indication is a receive indication, it is not generated until the Hausman adapter receives the data on behalf of the host computer from the remote computer over the physical link of the data network. Accordingly, the

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Hausman reference still fails to disclose or suggest providing an indication of successful transmission prior to the successful transmission over the physical link of the data network as provided for in claims 40, 46 and 52, above. Thus, by virtue of at least the foregoing patentable distinctions, Applicants respectfully submit that claims 40, 46 and 52 are nonobvious in view of the cited Hausman reference.

Moreover, without the need to further characterize the Copeland reference, Applicants respectfully submit that the Copeland reference fails to cure the above deficiencies of the Hausman reference with regard to new claims 40, 46 and 52. Accordingly, in view of at least the foregoing patentable distinctions, Applicants respectfully submit that claims 40, 46 and 52 are nonobvious in view of the combination of the cited Hausman and Copeland references.

Similarly, by virtue of at least their dependence upon patentable base claims 40, 46 and 52, Applicants respectfully submit that claims 41-45, 47-50 and 52 are likewise nonobvious in view of the cited Hausmand and Copeland references, alone or in combination.

Thus, in light of the foregoing amendments and remarks, Applicants respectfully submit that claims 40-52 are in condition for allowance, and respectfully request that the Examiner grant allowance of such claims.

Applicants counsel expressly invites the Examiner to contact the undersigned if such conversations will bring prosecution of this matter to an end.

Please charge any shortages and credit any overages to our Deposit Account No. 02-2666.

Attorney Docket No.: 42390.P3026C
Application No.: 08/526,714

Respectfully submitted,
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